

Substitute Senate bill No. 329, "An Act to provide for the supplying of lost records in the several counties in this State," approved April 14, 1874.

Senate joint resolution No. 194, "Joint Resolution authorizing the Adjutant General of this State to make application to the Commanding General of the United States army for additional troops for the protection of the frontier of Texas," approved April 14, 1874.

Senate bill No. 352, "An Act to amend an act entitled 'an act prescribing the time of holding the district court in the several judicial districts in the State,' approved August 10, 1870," approved April 14, 1874.

Senate joint resolution No. 363, "Joint Resolution empowering the Governor to employ counsel to prosecute any persons and to make an appropriation to defray the expenses in said prosecutions," approved April 14, 1874.

Senate bill No. 205, "An Act to attach the county of Waller to the Thirteenth Senatorial District," approved April 14, 1874.

Senate bill No. 164, "An Act to amend section eighteen of an act entitled 'an act concerning proceedings in the district court,' passed the sixteenth day of March, eighteen hundred and forty-eight, and took effect August 1, eighteen hundred and forty-eight," approved April 15, 1874.

Senate bill No. 358, "An Act to amend an act amendatory of an act to amend an act entitled 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870, approved April 17, 1871, approved June 4, 1873," approved April 15, 1874.

On motion of Senator Burton, the Senate adjourned.

#### SEVENTY-NINTH DAY.

SENATE CHAMBER, {  
Austin, April 17, 1874. }

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by Rev. Mr. Robert.

The reading of the journal of yesterday was dispensed with.

On motion of Senator Erath, Senator Davenport was excused for the day.

Senator Westfall presented a petition from citizens of Burnet county 'asking the passage of An act to enable them to build a court house and jail,' read and referred to Committee on Judiciary.

Senator Bradley presented the petition of citizens of Navarro county, with reference to amendments of city charter, read and referred to Judiciary Committee.

Senator Friend presented a petition of citizens of Jackson county, "asking the Legislature to pass a law requiring stock-raisers to pay taxes on their stock, to the county in which said stock or parts of stock may range." Read and referred to Finance Committee.

Senator Allison then presented a petition of O. P. Derickson, to retail liquor in the town of Pilot Point, Denton county, Texas, without paying tax to State or county." Read and referred to Judiciary Committee.

Senator Moore, for Committee on Agriculture, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Agriculture, to whom was referred House bill No. 194, "An Act to encourage the irrigation of lands in this State," have carefully considered same, and instruct me to report it back and recommend its passage.

MOORE, for Committee.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Agriculture, to whom was referred Senate bill No. 392, "An Act to incorporate the Menard Irrigation Company," have carefully considered the same, and instruct me to report the same back and recommend that it do not pass.

MOORE, for Committee.

Senator Trolinger, for Committee on Engrossed Bills, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Engrossed Bills, beg leave to report that they have carefully examined and compared Senate bill No. 395, "An Act to define the Twenty-second Judicial District, and to fix the times of holding the courts therein," and find the same correctly engrossed.

W. H. TROLINGER, for Committee.

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Engrossed Bills, beg leave to report that they have carefully examined and compared Senate bill No. 383, "An Act prescribing the times of holding the District Courts in the Sixteenth Judicial District of the State of Texas," and find the same correctly engrossed.

TROLINGER, for Committee.

Senator Friend, for Committee on Engrossed Bills, submitted the following reports :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Engrossed Bills, beg leave to report that they have carefully examined and compared Senate bill No. 48, "An Act to fortify land titles;" also, Senate bill No. 306, "An Act better defining the powers and duties of Sheriffs and Constables," and find them correctly engrossed.

W. R. FRIEND, for Committee.

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Engrossed Bills, beg leave to report that they have carefully examined and compared Senate Joint Resolution No. 331, "Joint Resolution authorizing the late State Printer to deliver two thousand copies of the General Laws of the Thirteenth Legislature, printed in the German language, to the Secretary of State," and find the same correctly engrossed.

W. R. FRIEND, for Committee.

Senator Ireland, Chairman Judiciary Committee, submitted the following reports :

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 331, "An Act to repeal articles thirty and thirty-one of 'An Act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties,'" approved August 13, 1870, ask leave to return the same, and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 393, "An act to secure the more efficient

presentation of certain cases," ask leave to return the same, and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 186, "An Act for the relief of certain citizens of Limestone and Walker counties," ask leave to return the same, with the following amendment: By adding to first section, "*And provided further*, that when parties seek to avail themselves of the provisions of this Act, and are unable to produce the military tax receipt, the sheriff or tax collectors of said counties may, in their discretion, require additional proof to the affidavit of said parties, of the payment of said military tax," and recommend its passage as amended.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 394, "An Act to require mayors of towns and cities to execute bond for the faithful discharge of the duties of their office," ask leave to return the same, and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 251, "An Act supplementary to "An Act to organize the courts of justices of the peace and county courts, and to define their jurisdiction," approved August 13, 1870, ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 301, "An Act to amend an act amendatory of article two hundred and sixty-three of the Code of Criminal Procedure," passed April 27, 1874, ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 249, "An Act to amend section twenty-two of an act entitled 'An Act to amend an act prescribing the mode of proceeding in district courts in matters of pro-

bate.' " approved August 15, 1870, approved May 27, 1873, ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 271, "An Act to amend Article two thousand seven hundred and thirty-two of Paschal's Digest, Article two hundred and sixty-four of Code of Criminal Procedure," ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 390, "An Act supplemental to, and amendatory of, the law concerning marriage," ask leave to return the same with the following amendment: by adding to Sec. first, "*Provided*, that any person prosecuted under this act, shall be permitted to show any reasonable excuse for his failure to comply with the requirements of this act," and recommend its passage as amended.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 284, "An Act to regulate the order of business in the District Court of Karnes county," ask leave to return the same and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 389, "An Act to repeal the Forty-first Section of an act to establish a Code of Criminal Procedure," approved August 26, 1856, ask leave to return the same and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 432, "An Act validating the authentication and registration of certain instruments of writing," ask leave to return the same and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 299, "An Act prescribing the times of holding the District Court in the Thirty-fourth Judicial District," ask leave to return the same and recommend its passage. IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 341, "An Act to provide for the amendment of Town and City Charters," ask leave to return the same and recommend its passage. IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 216, "An Act to authorize Justices of the Peace to take cognizance of certain cases therein named, relative to minors," ask leave to return the same and recommend that it do not pass. IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred Senate bill No. 388, "An Act to amend the one hundred and sixteenth Section of the act to regulate proceedings in District Courts," approved May 13, 1846, ask leave to return the same and recommend that it do not pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate :*

The Committee on Judiciary, to whom was referred House bill No. 364, "An Act supplemental to an act entitled 'an act to provide for and regulate mechanics, contractors, builders, and other liens in the State of Texas,' " approved November 17, 1871, ask leave to return the same, and recommend that it do not pass.

IRELAND, Chairman.

Senator Moore introduced a bill, entitled "An Act to provide for the transcribing and perfecting the records belonging to the office of county surveyor." Read first time, and referred to Judiciary Committee.

Senator Joseph introduced a bill, entitled "An Act to repeal an act, entitled 'an act to enable the Comptroller of Public Accounts to settle with defaulting revenue officers,' " approved November 6, 1871. Read first time, and ordered to lie on the table.

Senator Bradley introduced a bill, entitled "An Act to amend section seventeen of the charter of the city of Corsicana." Read first time, and referred to Judiciary Committee.

Senator Westfall introduced a bill, entitled "An Act for the relief of David Bredwick." Read first time, and referred to Committee on Private Land Claims.

Senator Westfall introduced a bill, entitled "An Act for the relief of August Millen Crouch." Read first time, and referred to Committee on Private Land Claims.

Senator Swift introduced a bill, entitled "An Act to validate the election for a corporation, and officers of the corporation of the town of Carthage." Read first time and ordered to lie on the table.

On motion of Senator Parker, the rules were suspended, and Senate bill No. 367, "An Act to make appropriation for the support of the State Government for the fiscal year 1874," was taken up.

On motion of Senator Wood, the bill was made special order for next Tuesday, at eleven o'clock.

On motion of Senator Joseph, the bill introduced by him this morning, entitled "An Act to repeal an act, entitled 'an act to enable the Comptroller of Public Accounts to settle with defaulting revenue officers,'" approved November 6, 1871, was taken up.

On motion of Senator Culberson, the bill was made special order for next Wednesday, at eleven o'clock A. M., and to continue as said special order until disposed of.

On motion of Senator Friend, the engrossing clerk was excused for the day, on account of sickness.

A message was received from the House, announcing that the House had concurred in Senate amendments to House bill No. 388, "An Act concerning private corporations."

Senate bill No. 227, "An Act to regulate common carriers," that was made a special order for eleven o'clock, was, on motion of Senator Bradley, taken up under a suspension of the rules, as was also the amendments thereto proposed by the committee reporting on said bill.

On motion of Senator Wood, the amendments of the Committee were adopted by the following vote :

YEAS—Senators Ball, Baker, Burton, Camp, Dillard, Dwyer, Ellis, Friend, Hobby, Joseph, Ledbetter, Moore, Randle, Russell, Shepard, Stirman and Swift—17.

NAYS—Senators Allison, Bradshaw, Bradley, Culberson,

Ireland, Morris, Parker, Trolinger, Wood and Westfall—10.

Senator Wood moved a reconsideration of the vote just taken. Carried.

(Senator Ireland in the chair.)

The vote was again taken on the amendments offered by the Committee, and they were adopted by the following vote :

YEAS—Senators Ball, Baker, Burton, Camp, Dillard, Dwyer, Ellis, Friend, Hobby, Joseph, Ledbetter, Moore, Randle, Russell, Shepard, Stirman and Swift—17.

NAYS—Senators Allison, Bradshaw, Bradley, Culberson, Ireland, Morris, Parker, Trolinger, Westfall and Wood—10.

Senator Dwyer offered the following amendment :

Amend section one by adding "*provided*, that the carriers shall not be responsible for any damaged goods that are in concealed packages." Lost.

Senator Dwyer offered to amend by striking out the sixth section of the bill.

Senator Wood moved, as a substitute therefor, that the word 'shall' be stricken out of said section, and the word 'may' be inserted.

The substitute was adopted.

The substitute was then adopted as an amendment.

Senator Shepard offered the following amendment :

In section six, line three, strike out the words 'or jury,' and strike out 'twenty-five' in line five, and insert 'ten' in lieu thereof.

Senator Friend called for a division of the question, so as to vote on each amendment separately.

The first amendment, offered by Senator Shepard, was lost.

The second amendment was adopted.

(The President in the chair.)

Senator Wood offered the following amendment :

"Amend first section, in twenty-sixth line, by striking out the word 'offered,' and insert in lieu thereof the words 'in his possession.'" Adopted.

Senator Culberson offered the following amendment :

"Erase in eighth and ninth lines, section three, the following words : 'against any place or places on their line or lines,' and insert the words 'from the same place against any person or persons.'"



Senator Trolinger offered the following substitute for the amendment offered by Senator Culberson :

"Amend by adding after the word 'lines' in line nine, the words 'nor against any person or persons.' "

The substitute was adopted.

The substitute was then adopted as an amendment.

Senator Moore offered the following amendment :

"Insert in line thirty-one, section one, after the word 'carrier,' the words '*provided*, the responsibility of the carrier, as a common carrier, shall only continue for twenty-four hours after he has notified the owner, his consignee or agent, that he is ready to deliver his goods.

Senator Baker offered the following as an amendment to the amendment offered by Senator Moore :

"After which time the responsibility shall be that of a warehouseman."

Senator Bradley offered the following as a substitute for the amendment and the amendment to the amendment :

"In section one, line thirty-one, and after the word 'carrier,' the following words: '*provided*, said responsibility shall not continue beyond a reasonable time after the consignee, owner, or their agents have been notified that the goods, or other property, are ready for delivery.' " Lost.

The amendment to the amendment was then adopted.

Senator Shepard offered the following as a substitute for the amendment offered by Senator Moore :

"Strike out after the word 'until,' in line twenty-nine, section one, all that occurs down to word 'the,' in line thirty-one, and insert the words "a reasonable time has elapsed after the arrival of the goods at their destination, and the owner, consignee, or his agent has been notified.' " Lost by the following vote :

YEAS—Senators Allison, Bradley, Dillard, Dwyer, Ellis, Friend, Joseph, Parker, Shepard, Swift and Trolinger—11.

NAYS—Senators Baker, Bradshaw, Burton, Camp, Culberson, Erath, Hobby, Ledbetter, Morris, Moore, Randle, Russell, Stirman, Westfall and Wood—15.

Senator Parker offered the following as a substitute for the amendment offered by Senator Moore :

"Strike out all from the word 'them,' in section one, line twenty-nine, to the word 'the,' in the thirty-first line." Lost.

Senator Ellis offered the following as an amendment to the amendment offered by Senator Moore :

"*Provided*, that when owners or consignees live at such a distance from the place of delivery as not to be able to care for said freight within twenty-four hours after notice, they shall have a reasonable time thereafter to call for said goods, during which time the responsibility of said carrier shall continue." Lost.

The question then recurring on the adoption of the amendment offered by Senator Moore, it was adopted.

Senator Bradshaw offered the following amendment :

"Amend by adding to end of section three the following words : '*provided*, that said carriers shall in no instance charge more for the transportation of freight or passengers for a shorter distance than they do for a longer distance.'" Lost.

Lost by the following vote :

YEAS—Senators Allison, Bradshaw, Bradley, Camp, Ellis, Parker, Trolinger and Wood—8.

NAYS—Senators Baker, Dillard, Dwyer, Erath, Friend, Hobby, Joseph, Ledbetter, Morris, Moore, Russell, Shepard, Stirman, Swift and Westfall—15.

Senator Dwyer offered the following amendment :

"Amend caption of bill by inserting the word '*incorporated*' after the word '*regulate*.'" Lost.

Senator Dwyer offered the following amendment :

"In section one, lines two and three, strike out the words '*person, association or*.'" Lost.

Senator Wood then moved the previous question, which was the engrossment of the bill.

Previous question ordered.

The Senate then ordered the bill engrossed by the following vote :

YEAS—Senators Allison, Baker, Bradley, Camp, Dillard, Erath, Joseph, Ledbetter, Morris, Moore, Shepard, Stirman, Westfall and Wood—14.

NAYS—Senators Bradshaw, Dwyer, Ellis, Friend, Hobby, Parker, Russell, Swift and Trolinger—9.

On motion of Senator Russell, the rules were suspended and the resolution heretofore offered by him, in regard to holding evening sessions, was taken up.

The resolution was adopted.

On motion of Senator Westfall, the Senate reconsidered the vote by which they refused to pass to third reading Senate bill No. 182, "An Act to dedicate to the use of Travis county certain lands in the city of Austin, on which

to erect a courthouse and jail, and to enable said county to build the same."

On motion of Senator Westfall, the bill was re-referred to Judiciary Committee.

The hour for the special order having arrived, to-wit, substitute for Senate bills Nos. 251, 261 and 277, "An Act to regulate the assessment and collection of taxes, and to provide penalties for the enforcement of the same," it was postponed for five minutes.

On motion of Senator Dillard, the rules were suspended and House bill No. 92, "An Act creating the office of public weigher, and regulating the appointment and defining the duties and liabilities thereof," was taken up and made a special for to-morrow at 11 o'clock A. M., and to continue as said special order from day to day until disposed of.

On motion of Senator Shepard, the special order was postponed for five minutes longer.

On motion of Senator Shepard, the rules were suspended and House bill No. 331, "An Act to repeal articles thirty and thirty-one of 'an act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties,'" approved August 13, 1870, was taken up and read second time.

Senator Wood moved to amend by striking out the word "article" wherever it occurs and inserting the word "section." Adopted.

The bill as amended was then read third time and passed.

On motion of Senator Baker, the special order, to-wit: Senate substitute for Senate bills Nos. 251, 261 and 277, entitled "An Act to regulate the assessment and collection of taxes, and to provide penalties for the enforcement of the same," was made special order for next Monday at 10 o'clock.

On motion of Senator Westfall, the rules were suspended and Senate bill No. 350, "An Act to amend the twenty-eighth section of 'an act prescribing the times of holding district courts,'" approved August 10, 1870, was taken up and read second time.

Senator Westfall offered the following amendment, which was adopted:

"Amend by striking out all after the enacting clause and inserting 'That section twenty-eight of the above recited act be so amended as to read hereafter as follows: That

the district courts of the Twenty-seventh Judicial District shall be holden at the times hereinafter stated, to-wit: in the county of Travis on the first Mondays in June, October and February, and may continue in session seven weeks; in Bastrop county on the fourth Mondays in July, November and March, and may continue in session four weeks; and that this act take effect from and after its passage.' "

Adopted.

The bill as amended was then ordered engrossed.

On motion of Senator Westfall, the rules were further suspended, bill read third time and passed.

On motion of Senator Dwyer, the rules were suspended and Senate bill No. 320, "An Act to incorporate the Frio Irrigation Company," was taken up, read second time and ordered engrossed.

The rules were suspended, bill read third time and lost by the following vote, it requiring a two-thirds vote:

YEAS—Senators Ball, Baker, Bradley, Dillard, Dwyer, Ellis, Friend, Hobby, Joseph, Ledbetter, Morris, Parker, Russell, Shepard and Swift—15.

NAYS—Senators Allison, Bradshaw, Burton, Camp, Moore, Stirman, Trolinger and Westfall—8.

Senator Westfall moved to reconsider the vote by which the Senate refused to pass Senate bill No. 320, "An Act to incorporate the Frio Irrigation Company." Laid over under the rules.

On motion of Senator Russell, the rules were suspended and Senate bill No. 89, "An Act to incorporate the South-Western Railroad Company, and to grant lands to aid in the construction of its road," was taken up, together with House amendments thereto.

On motion of Senator Russell, the House amendments were concurred in.

On motion of Senator Shepard, the rules were suspended and Senate bill No. 308, "An Act supplemental to the registration law, and to repeal 'an act to provide for a special registration of voters, etc.,'" was taken up and read second time.

Senator Burton offered the following amendment:

"Strike out wherever it occurs in the bill the words 'the Governor shall appoint,' and insert the words 'the people shall elect.'"

On motion of Senator Shepard, the amendment was laid on the table.

The bill was then ordered engrossed.

On motion of Senator Shepard, the rules were further suspended, bill read third time and passed by the following vote :

YEAS—Senators Allison, Ball, Baker, Camp, Dillard, Dwyer, Ellis, Friend, Hobby, Ireland, Joseph, Morris, Moore, Parker, Russell, Shepard, Trolinger, Westfall and Wood—19.

NAYS—Senators Burton and Ledbetter—2.

Senate bill No. 106, "An Act for the relief of A. W. Marchildon," was taken up and read third time.

The Senate then refused to pass the bill by the following vote :

YEAS—Senators Ball, Bradshaw, Burton, Joseph, Ledbetter, Morris, Moore, Russell, Stirman and Trolinger—10.

NAYS—Senators Allison, Baker, Bradley, Camp, Dillard, Dwyer, Ellis, Erath, Friend, Hobby, Ireland, Parker, Swift, Westfall and Wood—15.

Senator Dwyer, for Committee on Enrolled Bills, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Enrolled Bills beg leave to report that they have carefully examined and compared the following Senate bill, No. 27, "An Act to amend sections five, eight, seventeen and nineteen of an act entitled 'an act to incorporate the Orange, Jasper and Shelby Railroad Company, and to aid in the construction of their road,'" and find the same correctly enrolled, and have this seventeenth day of April, 1874, at 12:30 o'clock p. m., presented the same to the Governor for his approval.

Jos. E. DWYER, for Committee.

On motion of Senator Hobby, Senator Russell was excused until Monday next.

On motion of Senator Friend, the rules were suspended and House bill No. 113, "An Act making an appropriation to defray the traveling and other contingent expenses of the Adjutant General in collecting the State arms," was taken up, read second time and passed to third reading.

On motion of Senator Friend, the Senate adjourned.